

**REMARKS**

The present application has been carefully studied and amended in view of the outstanding Office Action dated October 6, 2004, and reconsideration of that Action is requested in view of the following comments.

Claims 1-14 are currently pending in this application. Claim 1 and dependent claims 2-12 are specific to the recitation of an assembled ten pack carton separable into smaller multi-pack retail units, and wherein each smaller retail unit has at least one open end exposing the packs therein. Additionally, the ten pack carton blank includes front, rear, top, bottom and side wall structure that totally encloses the packs therein. Hence, before the carton is separated into smaller multi-pack retail units, the packs are fully enclosed within the carton on all sides of the carton. However, when separated into smaller multi-pack retail units each such retail unit has at least one open end exposing the packs therein.

New claims 13 and 14 recite the feature of the score lines transversely extending across an assembled carton for separating the carton into smaller retail units with glue dots inside the blank on opposite sides of the score lines for releasably securing the packs within each of the smaller retail units when the carton is separated.

The outstanding Office Action relies upon three primary references in the rejection of these claims. However, each of these primary references fails to disclose or suggest the above described features of the present invention which are positively recited in all of the claims. The secondary references simply address isolated issues and are not relied upon to cure the deficiencies of each of the primary references, as described below.

Cobler U.S. 5,158,178 describes and illustrates a separable cigarette carton assembly. However, when the carton assembly is ultimately separated into smaller units, each of those units totally surrounds the packs therein. Clearly the smaller retail units do not include at least one open end exposing the packs therein.

Applicant respectfully disagrees with the Examiner's reconstruction of the Cobler reference in the formulated rejection of claims 1-12. In this regard the Examiner dismisses the defined limitation in the claims and indicates that modification of Cobler by removing the divider flap 214 would have been an obvious expedient, and further that mere removal of its part and its function has been long held to be obvious. Applicant's position is that such modification destroys the integrity of the smaller retail units of Cobler, and without the flaps 214 the packs would easily fall out of the smaller units. Moreover, there is no suggestion to modify the Cobler reference by removing the divider flap. Only utilizing prohibited hindsight is the Examiner able to so modify the Cobler reference.

With respect to claims 13 and 14, Cobler uses carton structure in the form of flap 214 to retail the packs in the smaller retail units while the carton blank of claims 13 and 14 uses glue dots to retain the packs. This expedient produces a much simpler blank which is easy to assemble and fill with the individual packs. It avoids the extra structure and complication of Cobler.

Similarly DeBlasio et al U.S. 5,201,413 ("DeBlasio") fails to disclose or suggest the features defined in claims 1-12. Fundamentally, the carton of DeBlasio totally surrounds the packs within the carton, and when the carton is separated into smaller retail units the packs within those units are totally surrounded by carton structure.


These smaller units do not include at least one open end exposing the packs therein. Absent the present disclosure there is no suggestion to modify the smaller retail units of DeBlasio by removing a portion thereof in order to expose the packs therein.

Moreover, DeBlasio includes longitudinal score lines and uses carton walls to surround each of the smaller retail units. Unlike DeBlasio, the carton blank of claims 13 and 14 has transverse score lines and utilizes glue dots on opposite sides of the score line to retain the packs. This produces a much simpler blank which is easy to assemble and fill with product packs. Here again the blank of claims 13 and 14 avoids the extra structure and complication of DeBlasio.

Focke et al U.S. 4,932,534 ("Focke") is also deficient with regard to the features specifically defined in claims 1-12. Basically, Focke fails to disclose or suggest a carton blank that totally encloses the packs within the formed carton together with the feature of separable smaller retail units each of which has at least one open end exposing the packs therein. Moreover, there is no disclosure or suggestion of the combination of transverse score lines and glue dots as recited in claims 13 and 14. It is abundantly clear that there is no suggestion to modify the Focke carton to any other form than that illustrated in the drawings of the Focke patent.

Accordingly, for the reasons expressed above it is believed that the present application is in condition for allowance and early notice to that effect is respectfully requested.

Respectfully submitted,

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